

LG Williams & Prichard - Hedydd Davies

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SOLICITORS - CYFREITHWYR



POSSESSION OF RESIDENTIAL PROPERTIES

Three Types of leases and tenancies



Commercial
leases

Residential
leases

Neither e.g.
garage

Protection from Eviction Act 1977



- Must obtain a Court Order
- Criminal Offence – maximum sentence of 2 years



SECTION 21

SECTION 8

SECTION 21



- 2 months
- No reason
- No claim for rent arrears
- Usually no need to attend Court
- Order usually made around 6 weeks after issuing proceedings
- Possession within 14 – 42 days

SECTION 21 - PITFALLS



- Rolling contract from outset – must expire on rent payment date
- Problems with serving the notice
- No prescribed notice
- Errors with the notice
- Rent Smart Wales
- Deposit
- Prescribed Information

SECTION 8



- 17 grounds
 - 8 mandatory grounds
 - 9 discretionary grounds
- ‘Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

- (a) if rent is payable weekly or fortnightly, at least eight weeks’ rent is unpaid;
- (b) if rent is payable monthly, at least two months’ rent is unpaid’

SECTION 8



- Two weeks' notice
- Attendance at Court is required
- Rental arrears should be clear
- Order for possession within 14 -42 days
- Will include claim for rental arrears

SECTION 8 - PITFALLS



- Tenant may not be in enough arrears at date of hearing
- Claim under Section 11 Landlord and Tenant Act 1985
- Can delay possession
- Correct parties

ENFORCEMENT



- County Court Bailiffs
 - £121
 - 5 weeks
- High Court Enforcement
 - Court Application Fee to Transfer - £100
 - Court Transfer fee - £66
 - HCEO's costs - £375 plus VAT (if the eviction lasts more than one hour, hourly rates will apply)
 - Total - £616 +

ENFORCEMENT



- Landlord facing financial difficulty due to loss of rent
- Increased risk of damaged to the property
- HCEO able to action quicker given delays with County Court Bailiff

ENFORCEMENT



- **Indicators which can affect the chance of recovery:**
 - ▣ Has the tenant lost their job or been made redundant?
 - ▣ Has there been a relationship split, and has the main income been lost?
 - ▣ Are there any health problems – mental or physical?
 - ▣ Does the tenant suffer from drink or drugs misuse?
- **Consider the following:**
 - ▣ Are you likely to get your money back, including court costs if successful?
 - ▣ Does the tenant have any other outstanding debts/CCJ's?
 - ▣ Does the tenant have any other form of income?
 - ▣ Does the tenant own any valuable assets?



- Gather all information at the outset – before handing over the keys!
 - Contact details
 - Employment information
 - Date of Birth
 - Email address
 - Vehicle Registration Details
- Establish the tenants financials
 - Sight several statements
 - Attachment of Earnings
- Ask for a guarantor (obtain their contact information too)
- ID
- Referencing



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